IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.205 OF 2000

The Commissioner of Income Tax
City-XV, Bombay .. Petitioner.

V/s.

Late Shri K.C. Shah .. Respondent.

Mr.Ashok Kotangale i/b. Mr.R.N. Bandopadhyay for the petitioner.

Ms.Neetu Chomal with Mr.Pradeep Uchil i/b. D.M. Harish & Co. for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 19TH SEPTEMBER, 2005.

P.C. :

1. In spite of grant of two adjournments, the revenue has not taken care to comply with the directions issued by this court contained in the order dated 29th August, 2005 followed by another order dated 12th September, 2005 though the revenue was given last chance to produce the confessional statement made by the assessee.

2. The directions to produce confessional statement necessitated because in the assessment order, the assessing officer has mentioned that the sale of rights in Mysore House has been for

Rs.12,50,000/-; whereas; as per assessee's confession, over and above that amount, an amount of Rs.21,50,000/- in cash was received, that is how he treated total receipt in the sum of Rs.34,00,000/-. Against this factual backdrop, at the instance of the Revenue the question sought to be raised in the appeal is: "whether the Tribunal was justified in directing the assessing officer to take the sale consideration at Rs.34,00,000/- instead of Rs.46,50,000/- in spite of the fact that the assessee has confessed having received Rs.34,00,000/- in cash and Rs.12,50,000/- by cheque".

3. The contention sought to be raised by the Revenue and the figures sought to be projected in question of law framed are contrary to the figures worked out by the assessing officer in the original order. As per the order of the assessing officer as stated above, Rs.34,00,000/- constituted an amount of cash component in the sum of Rs.21,50,000/-; whereas the question sought to be framed is on the premise that an amount of Rs.34,00,000/- in cash was taken over and above Rs.12,50,000/- shown by way of consideration in the conveyance deed.

4. In order to get clear picture, the Revenue was directed to produce confessional statement.

However, no such statement has been produced on record in spite of grant of two opportunities. We do not think that the Revenue is justified in seeking further time to produce the confessional statement. Prayer for further time is rejected.

5. In the above view of the matter, we have no option but to reject this application for non-compliance of the orders of this court dated 29th August, 2005 and 12th September, 2005 respectively with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)